

DOCUMENT RESUME

ED 059 131

SO 002 358

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TITLE A Survey of Laws and Court Decisions in the United States as Related to Teacher Responsibility and Liability During Field Trips.
INSTITUTION Indiana Univ., South Bend.
PUB DATE Jan 72
NOTE 67p.
EDRS PRICE MF-\$0.65 HC-\$3.29
DESCRIPTORS Educational Administration; Educational Legislation; Field Instruction; *Field Trips; Insurance Programs; *Legal Problems; Legal Responsibility; Literature Reviews; *National Surveys; Student Transportation; *Student Welfare; *Teacher Responsibility

ABSTRACT

The purpose of this study was to investigate existing state laws and court decisions in the United States related to teacher responsibility and liability while on field trips. Literature reviewed in the report deals with both teacher responsibility and the instructional aspect of field trips. During July and August, 1971 a three-item questionnaire (appended) was mailed to each state's office of the Attorney General, Superintendent of Public Instruction, and office of the State Education Association. 109 responses were received from 48 states. The questionnaire sought information regarding: 1) specific state laws dealing with the conduct of field trips by teachers with groups of children; 2) recent and earlier court decisions regarding teacher responsibility and liability; and, 3) comments regarding the issue in general. Responses are tabulated, summarized, and quoted in four tables and interpreted as follows: 1) relevant state laws and court decisions are few, if any, in number; 2) the teacher conducting a field trip is no more liable to tort liability for negligence than he would be in his own classroom; and, 3) liability insurance is available to teachers either through government agencies and/or member ship in professional organizations in many states. (Author/DJB)

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A SURVEY OF LAWS AND COURT DECISIONS IN THE UNITED STATES
AS RELATED TO TEACHER RESPONSIBILITY AND
LIABILITY DURING FIELD TRIPS

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January, 1972

ACKNOWLEDGMENT

The completion of a study of this kind depends upon the assistance and cooperation of many persons. The investigators wish to thank those persons who took the time and effort to respond to our request for information. They also wish to thank Mrs. Jane Cullar whose early research efforts made a valuable contribution, particularly in her review of literature in the area of field trips. In addition the authors wish to thank Mr. Richard L. Kieser, Assistant United States Attorney for the Northern District of Indiana, for his helpful suggestions concerning the final draft of this document.

TABLE OF CONTENTS

Chapter	Page
I. THE PROBLEM, PROCEDURES, AND DEFINITIONS OF TERMS USED	1
The Problem	2
Methods of Procedure and Sources of Data	2
Limitations of the Study	4
Definitions of Terms Used	5
Organization of the Remainder of the Study	6
II. REVIEW OF RELATED LITERATURE	7
General Background	7
Value of Field Trips	8
Use of Field Trips by Teachers	13
School Law and Liability	14
Summary	20
III. PRESENTATION AND ANALYSIS OF DATA	22
Mailing and Receipt of Opinionnaire	22
Analysis of the Data	25
Summary	45
IV. SUMMARY, FINDINGS, AND CONCLUSIONS	47
Summary	47
Findings	49
Conclusions	49
BIBLIOGRAPHY	51
APPENDIXES	55
Appendix A: Opinionnaire and Follow-Up	56
Appendix B: Selected Correspondence	59

LIST OF TABLES

Table	Page
1. Responses to Request for Data, Classified by State and Agency	23
2. Respondents' Replies to Question "Does Your State Have Specific Laws Dealing with the Conduct of Field Trips by Teachers with Groups of Children?"	26
3. Respondents' Replies to Question "Have You Had Any Recent Court Decisions Regarding Teacher Responsibility and Liability in the Matter of Field Trips?"	32
4. Summary of Remarks and Comments Made by Respondents	37

CHAPTER I

THE PROBLEM, PROCEDURES, AND DEFINITIONS OF TERMS USED

Background. Community resources have been utilized for many years by teachers to supplement their instructional program. Part of this utilization of community resources requires teachers to take their children outside the normal classroom environment on "field trips." In an effort to prevent schools from becoming isolated from reality, teachers have taken and will continue to take children into the community. The field trip has given the students the opportunity to learn in a setting which gives them direct, first-hand experience with the subject under study.

Teachers have expressed concern about their legal responsibilities during these field trips. They have recognized that conditions outside the classroom may increase the element of danger to the students. Children may expect more freedom when away from the school environment, but in reality field trips may necessitate greater restrictions, and, consequently, more careful supervision on the part of the teacher.

The transportation of students to and from the site of the field trip may also be a cause of concern. Questions regarding use of school buses and other vehicles, including public transportation and privately owned automobiles have been raised. Some schools may not, and in some cases cannot,

provide transportation, thus creating problems for teachers who wish to utilize the field trip as an instructional aid.

The Problem

Statement of the problem. It was the purpose of this study to investigate existing state laws and court decisions in the United States related to teacher responsibility and liability while on field trips.

Importance of the study. Teachers have long been interested in their legal responsibilities relative to field trips. Administrators and local school board members have been aware, but sometimes not fully cognizant, of the legal status of the school district, their teachers, and themselves, in terms of liability and responsibility when involved in educational activities away from the site of the school. This study was intended, therefore, to add to the body of knowledge dealing with state laws and court decisions concerning teacher liability and responsibility while conducting field trips of an educational nature.

Methods of Procedure and Sources of Data

The purposes of this section of the study were to describe: (1) the method used in obtaining the population; (2) the design of the opinionnaire; and (3) the statistical treatment of the data.

Obtaining the population. All 50 states in the United States were included in this study. The opinionnaire was

sent to each of three sources of information in each of the several states. Replies were solicited from each state's office of the Attorney General, the Superintendent of Public Instruction (Department of Education), and the office of the State Education Association. These three sources were utilized in an attempt to gather a greater number and consequently a greater depth of information; to enable a cross validation or verification of responses within the states, and to insure at least a minimal response (one reply) from the majority of the 50 states.

A single page opinionnaire was mailed to each of the three agencies of each of the several states during July, 1971. A follow-up inquiry was mailed approximately one month later to those offices from which no response had been received through the initial request.

Design of the opinionnaire. The opinionnaire was designed in question form. Several statements explaining the purpose and procedures of the study were included in the single page letter. The questions were rather brief and only three in number.

The purpose of the questions contained in the opinionnaire was to elicit the following information: (1) to ascertain the existence of specific state laws dealing with the conduct of field trips by teachers with groups of children; (2) to determine the existence of any recent (within the last five years) court decisions relating to teacher

responsibility and liability in the matter of field trips, also any earlier decisions; and (3) to solicit any comments related to teacher responsibility and liability in the matter of field trips. Copies of the initial request and the follow-up opinionnaire will be found in Appendix A.

Treatment of the data. All data were analyzed and reported in terms of replies received. Answers to the two questions regarding state laws and court decisions were presented in tabular form. Percentages of responses were presented where applicable. Comments contained in responses were analyzed, summarized, and presented in both tabular and narrative form.

Limitations of the Study

The limitations of any investigation conducted by the use of normative survey techniques existed in this study. A further limitation resulted from the fact that reliability of the data depended upon the accuracy with which respondents interpreted the questions and responded to them.

A further limitation is the educational and experiential background of the authors. They have no formal legal training, but rather possess a degree of expertise in the fields of teaching and educational administration. Care has been taken to summarize and recommend from the correspondence obtained from the respondents. Specific legal interpretation of the laws and court decisions has been avoided.

Definitions of Terms Used

Several terms employed in this study were defined as follows:

Accident. An event which occurs without fault, carelessness, or want of proper circumspection of the person affected. (27:227)*

Board immunity. Legal exemption of a board of education from liability from suit arising from circumstances as prescribed by law or court rulings; varies considerably from state to state. (17:62)

Contributory negligence. Failure by an injured person to use ordinary care, which is a concurrent cause with the negligence of the injurer in producing the injury. (17:129)

Defendant. The party against whom an action is brought in a court of law. (17:159)

Field trip. Syn., instructional trip. (17:227)

Immunity from tort, government. A principle of law that holds that the federal and state governments are not liable to individuals in damages for injuries caused by their officers, employees, or agents. (17:280)

Indemnify. To compensate for the extent of loss or damage previously incurred. (3:72)

Instructional trip. A trip arranged by a teacher or other school official and undertaken for educational purposes; the transportation of pupils to places where materials of instruction may be observed and studied directly in their functional setting, such as a trip to a factory or a city waterworks. Syn. field trip; non-routine trip; school excursion. (17:291)

Invitee. One who is at a place upon invitation of another. (27:228)

*Numbers in parentheses refer to numbered references in the bibliography; those after the colon are page numbers.

Liability, teacher. A term referring to the fact that teachers, like all other individuals, are liable in damages to pupils injured as a result of their tortious acts. (17:318)

Licensee. One who is upon the property of another by authority of the owner for his own interest, convenience, or gratification. (27:228)

Negligence. Failure to do that which a person of ordinary prudence and foresight might be expected to do and which through a duty owed forms the proximate cause of an injury to another. (27:228)

Plaintiff. One who commences a suit or action in law. (17:400)

Proximate cause. That which in its natural consequence, unbroken by any intervening cause, produces an injury, and without which the injury would not have occurred. (27:229)

Tort. An actionable wrong or injury to another. (27:229)

All other terms used, where not specifically defined, have been taken from Good's Dictionary of Education. (17)

Organization of the Remainder of the Study

This study has in Chapter II a brief review of pertinent literature and related research. The presentation and analysis of the data are reported in Chapter III. The summary, findings, and conclusions of this study are presented in Chapter IV.

CHAPTER II

REVIEW OF RELATED LITERATURE

General Background

School excursions, or field trips, were extensively used in European countries before world War II. According to Curtis their chief development had been in Germany during the nineteenth century. From Germany the idea spread, to the British Isles, as well as to other European countries and the Orient. This movement took place during the latter half of the century. (7:201)

In Great Britain school journeys began in 1890 with children going to the country for the weekend to study nature and geography. By 1911 so many schools were using trips that a non-profit organization, the School Journeys Association, was formed to make arrangements for school trips. (18:151)

In the United States, Charles and Frank McMurry had begun advocating the use of excursions in the teaching of science and geography. By 1903 Charles McMurry had outlined a three part procedure for taking field trips consisting of: "preparation for the excursion, the trip, and the follow-up activities comprised largely of discussion." (7:201)

The position of the field trip within the instructional unit has varied. It has been used as an introduction to

instruction, as a culminating activity, or within the body of the unit. (7:201)

At the present time "journeys undertaken by British schools fall roughly into two categories: domestic trips, taken during term time; and journeys abroad." (18:152) These excursions abroad range from an airplane flight from Birmingham to London and back again for geography, to research expeditions to Lapland, Iceland, and British Columbia. (7:151-53)

In the United States field trips can range from a walk around the school yard and through a nearby woods, (24:40) to a two day marine field trip. (32:32) As Howland stated: A field trip

...may go across the street from the school to a fire house or to a neighboring meadow or it may go across the continent or around the world. It may be supplemental to a lesson or a unit of work, or it may be a course in itself for which credit is given. (24:1)

Value of Field Trips

There are a number of values attributed to field trips. Howland says:

The basic objective of the field trip is to provide understanding through experience. Associated with this primary objective--in some cases contributing to it--are a number of others, such as to explore or stimulate interest in a new area, to answer questions, to learn about community processes and structure, to practice cooperative behavior, improve teacher-pupil relationships, develop social consciousness. (24:1)

The values gained in excursions, according to Hall, are the provision of accurate first hand information, the

promotion of better citizenship, the opportunity for social training, the encouragement of the love of travel, the formation of a connecting link between community and school, and the creation of interest. (19:153)

A field trip increases the student's knowledge of a particular subject but, even more importantly, may increase his desire for knowledge. (32:32) A field trip may unify a group of children. (26:40) It can make a unit of study more meaningful and make real what has been read or discussed. (13:15) "Field trips are especially valuable for enriching the background of slow learners, most of whom rarely visit places of educational interest." (20:113)

Many early studies evaluated field trips as contrasted with films or other audio-visual aids to learning. Recent studies have evaluated them within the total picture as one of many resources available to the teacher. (8:277) Both types of evaluation seem to be valid.

Field trips are generally evaluated by the individual teacher in a rather subjective way. The teacher observes the pupils and forms his opinion on the basis of what he sees. Abraham analyzed the effectiveness of a trip to Washington, D. C., by a group of high school students and he presented his observations concerning pupil responses:

The basic value, he concluded, of this particular journey was represented not so much by a gain in information of political and economic issues as by an enhanced interest in these matters arising from the vividness with

which they were presented in direct contact with legislators and other public officials. The total effect of the visit was to increase esteem for the people who make, administer, and interpret the laws of the land. (8:278 citing Abraham)

Raths evaluated a trip to the coal mining area of West Virginia by fifteen high school students as follows:

What has been collected suggests that carefully planned direct experiences may result in clarifying the beliefs which students hold; it suggests also that greater allegiance to human values, firmer faith in democratic principles, a more flexible outlook which considers solutions to social problems as tentative and not arbitrary are some of the outcomes which may come from educational experiences similar to the west Virginia trip. (8:279 citing Raths)

Clark studied 335 sixth grade children. He selected four units, Egypt, Printing, Transportation, and Communications for the experiment. The experiment was carefully controlled so that non-experimental factors would not figure in the results. Interest tests were administered, as well as achievement tests. Pupils were also afforded the opportunity to write one page of reaction to the unit. After final scores were tabulated and adjusted for pretest scores and mental ages, the experimental groups (field trip) were found to be significantly superior in all units except Egypt, in which the control group was superior. Regarding the absolute retention scores, there were no significant differences between the groups, except in the Printing unit, where the control group was found to be superior to one of the two experimental groups. No significant difference was found between groups in relative retention. (4:11-13)

The results of this study indicate that teachers should constantly evaluate the field trips they take. Some of them may not be achieving the desired outcomes.

In a study by Forester of eight 4B social studies classes the findings were similar to the Clark study. Forester concluded that a significantly greater degree of learning took place as a result of field trips. There was no significant difference in the results of a retention test. (13:181)

Curtis studied 32 fifth grade children who were divided into two groups to determine what contributions a field trip might make in their unit of study on erosion and conservation of soil. Within certain stated limitations "the conclusion may be made that the excursions in this study contributed to understanding when employed as a summary technique." (7:202)

Curtis goes on to state that "too much should not be expected of the excursion per se." He concluded with:

Instead of recommending that a certain part of the time allotted to science and social studies be given to excursions, the writer recommends, . . . that the excursion be used as a major instrument of instruction in cases where illustration of subject matter is readily accessible in the community, and especially in cases where the concrete experiences of the pupils have been limited. (7:210)

A study by Harvey was made of the value of using field trips to acquire new knowledge and to develop scientific attitudes rather than for the purposes of illustration or

verification of information. Two sections of thirty-four students each of ninth grade general science classes were selected for the experiment. The unit of study selected was conservation. Harvey stated, when discussing his findings that "from the functional use of the scientific method the (experimental) students gained an increase in scientific attitudes which is shown by the statistical analysis to have been of scientific value." It was also proven practical for a ninth grade general science class to study a part of their environment using the scientific method and it was also demonstrated that a worthwhile excursion can be conducted within a fifty-five minute class period. (21:242-48)

In Milwaukee, field trips are used in a different way. A number of Orientation Centers for new migrants to the city and transients already within the city were set up in 1960. Children who are culturally disadvantaged but have normal ability are assigned to these centers for varying periods of time, usually one to four semesters, or until they can be put into the public schools with a chance of success. These children are especially lacking in real life experiences, so the field trip was selected as the focal point of the curriculum, as a means of providing the missing experience at the concrete level. Field trips also provide a background of knowledge on which to build skill conceptualization and abstract thinking, which are so necessary

for success in school. (28:9)

Field trips are used to expand the world of the child and to stimulate his interest in the world around him. These trips are used as material upon which a writing program is built, and discussions can center about the field trip experiences. Mathematics is used to figure out how much trips will cost, what supplies are needed, and how far they will travel on their trip, how long it will take, and the route they will follow. These are but a few of the facets of the Milwaukee program. (28:9)

The preceding studies indicate that field trips can contribute to learning, if they are carefully selected, properly prepared for, and well conducted.

Use of Field Trips by Teachers

DuVall and Truex reported that approximately ten per cent of teachers employed in a selected Northern Indiana School District will take field trips during a school year. (11:12-15) Ayars surveyed 92 teachers who were attending a community resources workshop to determine the reasons they did not use field trips with their classes. The reasons given, in descending order of frequency were: too full schedule, lack of transportation, too many pupils in classes, course of study requirements time consumed by routine duties, the daily class schedule, problems of liability, too time consuming, and fear that some fundamental teaching may be disregarded.

Ayars goes on to state:

Extensive and effective utilization is not apt to develop, according to questionnaire responses, unless administration provisions are made to provide: a favorable physical situation, a flexible class schedule and curriculum, suitable transportation, accessibility of materials, freedom from responsibility for accidental injuries not due to negligence, community understanding and support, and a general atmosphere of encouragement as to the use of community resources. (2:24)

School Law and Liability

Many articles have been written about school law and the liability of the teacher and schools in cases of accidents.

Literature is most prevalent on topics of liability related to accidents in the school or classrooms, or while transporting students to athletic or other school-related events. Much information is also available in regard to negligence and the various approaches taken by states in seeking to protect teachers and other school officials. This portion of the review of literature, therefore, will include the several aspects of school law and liability as related to school personnel, both within the physical confines of the school area and also while with students away from the school site.

Teachers and other school officials may be sued and possibly be held liable for injuries to students. In past years school districts were traditionally immune from tort liability. The similarity between a king of England in 1765 and today's school districts has been challenged. (25:22)

A number of states, therefore, have repealed their immunity laws.

The changing attitude of the community, students, and teachers has been cited in reference to an increased number of cases involving tort liability.(1:55) Law suits against school districts and school officials appear to be on the increase.

Liability for an accident may occur when negligence is involved. If a reasonably prudent person could have foreseen the consequences of the act or would have acted differently under the circumstances, and the defendant failed in this respect, then he may have been negligent in his actions. (12:63) One test often used to determine if conduct is negligent is foreseeability. (9:41) Usually a teacher is free of blame if the injury is caused by an unavoidable or unforeseeable accident.

Nolte, citing a specific case, states the following:

Sometimes school "trips" have unhappy endings, like the club initiation trip on which a student was injured in an automobile accident at 2A.M. on Sunday morning, many miles from the school in another county. A connection between the school district and the club was claimed by the plaintiff by stating that the school had appointed a supervisor to supervise the club in all its activities. In non-suiting the plaintiff the court said:

"we are here concerned with the school district's responsibility for supervising an organization and the activities of its members having no relationship to the extra-curricular activities program on a non-school day at a point far removed from the school....A school district is not liable for its ultra vires activities. ...There is no indication that the sponsorship and

supervision of the club referred to was within the powers which the school district could exercise. (27:127)

Contributory negligence on the part of a student may free the teacher of liability. (15:35) The judge takes into account the maturity and age of the injured student, but if a minor, contributory negligence is often difficult to prove. (12:63)

It is sometimes thought that negligence of both student and teacher has contributed to the accident. This mutual contribution may be thought of as equal responsibility or as a variation in the degree of negligence, whereby damages are prorated according to guilt. This doctrine has been described as comparative negligence and is included in the statutes of several states. (12:63)

Injury to students which may lead to teacher liability cases occurs in various ways. Many of these cases seem to involve supervision of students. (30:20) Inadequate supervision, when an injury has occurred, may be a factor in determining a teacher's negligence. The court may rule that the presence of a teacher may have prevented the accident. Therefore, it is usually recommended that a teacher not leave a classroom or playground unsupervised. (9:41-42) It is expected that teachers will "provide reasonable supervision of children, but the courts do not require constant scrutiny." (1:57)

Nolte, speaking to tort liability, states:

A "tort" is an actionable wrong, exclusive of breach of contract, which the law will recognize and set right. A tort is a legal wrong against the person, property, or reputation of another. . . .

In order to be held accountable in tort, a person must have all three of the following conditions present:

1. There must be a duty owed the plaintiff by the defendant;
2. There must be a breach of the duty owed; and
3. There must be a causal link between the breach and the plaintiff's injury or damage. (27:100)

Accidents also occur while transporting students to and from activities away from the school site. Some states have specific statutes authorizing school districts to provide transportation for activities away from school. Some states also allow school districts to purchase liability insurance for transportation purposes only. It is quite obvious districts are concerned about accidents while transporting students. (18:64)

Another facet of transportation which has caused many problems is that of using privately owned automobiles for transporting students. The teacher or other owner of the car may be found liable for injuries to students riding in his car. (23:413)

Permission slips are often required for field trips. It has been emphasized that permission slips signed by parents do not relieve teachers of responsibility for students. Both Phlegar (30:22) and Howard (23:413) emphasized that permission slips do not remove responsibility,

but simply inform parents of the trip or indicate parents have given permission for the child to take the trip.

Many state governments and state education associations have taken steps to protect school employees. Laws and insurance plans have been implemented to remove the burden of payment in these cases.

State governments in many cases have eliminated sovereign immunity as a protective device for school districts. Approximately one-third of the states have legislated "save harmless" laws. (22:39) Wetterer described this statute in the state of New York as one which requires the board of education to "indemnify all its employees against financial loss for acts of negligence committed in the line of duty." (33:530) Such state laws differ somewhat in that some states permit, and other require, the school district "to reimburse employees who are held liable for injuries resulting from negligence." (12:64)

Nolte, discussing the issue of "save harmless" laws states:

In recent years the concept of immunity from tort liability in cases of proven negligence has come in for a good deal of criticism. In some cases, notably Washington, California, and New York, statutes have been enacted which abrogate the common law immunity of school districts, while in others the supreme courts have taken action to end the practice. Whether by legislative action or by judges' decision, there is a definitely identifiable trend toward an abrogation of the concept of governmental immunity from tort liability of school districts in this country. (27:103)

Some states have statutes which require or permit school districts to carry liability insurance. (12:64) A case involving both the "save harmless" clause and liability insurance was described by Grieve. A teacher and his student passengers, while going to a music festival, were involved in an accident and all killed. Subsequent litigation revealed negligence on the part of the driver. Due to the "save harmless" statute of that state, the school district was held responsible for the action of the teacher. The liability insurance carried by the district was insufficient to cover the enormous claims. Consequently the school district increased the tax rate for several years to settle the claims resulting from the tragedy. (18:86)

Liability insurance is often provided through membership in professional organizations. A group liability plan for all members is either available for a small fee or is included within the annual dues payment. (12:64) Dineen indicates that in one state the coverage includes payment of all attorney fees and other costs and may provide payment of judgments up to \$100,000. (10:26)

Regardless of "save harmless" laws and liability insurances, a study of the literature revealed that teachers need to exercise extra precautions while involved with students in activities away from school. Davis emphasized that teachers must consider the age, maturity and physical condition of the students when away from school on a field

trip. Careful planning and adequate supervision were cited as very important in establishing reasonable care when in charge during these educational activities. (9:43)

Summary

This chapter has been devoted to a review of related literature in order to provide a background of information and also a rationale for the present study. The review of literature may be seen as two distinct parts, dealing respectively with (1) field trips as an integral part of the instructional program, and (2) teacher responsibility and liability as related to the conduct of these trips.

Educators have utilized the field trip or excursion for over half a century in this country. It had been used before that for some time in Europe. The literature reviewed indicated that the field trip does have definite instructional advantages over the continued vicarious experiences of the traditional classroom. While it is widely used today it is still not utilized by a majority of today's classroom teachers.

Further examination of the literature reveals that state legislators and school personnel are concerned about accidents resulting in injuries to students. While it appears that repeal of sovereign immunity statutes is a trend across the country, an equally important trend of providing "save harmless" laws seems evident. These statutes require

or permit school districts to reimburse school personnel for financial losses resulting from liability suits. State governments and school districts are accepting greater responsibility for liability where negligence has contributed to accidents involving personal injury.

Further, an increasing number of states require or permit school districts to carry liability insurance on school personnel. Numerous state professional associations also provide liability insurance plans through membership in the organization.

CHAPTER III

PRESENTATION AND ANALYSIS OF DATA

The purposes of this chapter were to present the results of the analysis of the data of (1) the mailing and return of the opinionnaire and (2) the data obtained from the replies to the questions themselves.

Mailing and Receipt of Opinionnaire

The opinionnaire (Appendix A) was sent to three agencies in each of the 50 states of the United States. These letters, dated July 7, 1971, were sent to each state office of the Attorney General, the Superintendent of Public Instruction (Department of Education), and the Education Association.

Approximately one month later (August 11, 1971) a follow-up opinionnaire (Appendix A) was mailed to each state agency from which no reply had been received.

A 96 per cent response was received from these mailings when considered by state. Responses, as presented in Table 1, were received from 48 of the 50 states. At least one, and in many instances two or even three agencies responded from each of the several states. In two cases, Montana and West Virginia, no response was received from any of the offices contacted.

Responses were received from 88 per cent of the

TABLE 1. RESPONSES TO REQUEST FOR DATA, CLASSIFIED BY
STATE AND AGENCY

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
Alabama	X	X	-
Alaska	X	X	-
Arizona	X	X	X
Arkansas	-	-	X
California	X	X	X
Colorado	-	X	X
Connecticut	X	X	-
Delaware	-	X	-
Florida	X	-	-
Georgia	X	X	X
Hawaii	X	X	X
Idaho	X	X	X
Illinois	X	X	X
Indiana	X	X	X
Iowa	X	X	X
Kansas	-	-	X
Kentucky	X	X	X
Louisiana	X	X	-
Maine	X	X	-
Maryland	-	X	-
Massachusetts	X	X	-
Michigan	X	X	-
Minnesota	X	X	-
Mississippi	X	X	X
Missouri	X	X	X
Montana	-	-	-
Nebraska	-	X	X
Nevada	X	X	-
New Hampshire	X	X	-
New Jersey	-	X	X
New Mexico	X	X	-
New York	-	X	X
North Carolina	X	X	X
North Dakota	X	X	X
Ohio	-	X	X

TABLE 1 (continued)

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
Oklahoma	x	x	x
Oregon	-	x	-
Pennsylvania	x	x	x
Rhode Island	x	x	-
South Carolina	x	x	x
South Dakota	x	x	x
Tennessee	x	x	x
Texas	x	x	x
Utah	x	x	x
Vermont	-	x	-
Virginia	x	-	-
Washington	x	x	x
West Virginia	-	-	-
Wisconsin	x	x	-
Wyoming	-	x	x
Total Responses	36	44	29
Per Cent	72	88	58
Total Responses - All Sources 109 / 73 per cent			
One or more responses by state 48 / 96 per cent			

Departments of Education (Superintendents of Public Instruction). Of the state offices of the attorneys general a return of 72 per cent was realized. Responses from 58 per cent of the offices of the several State Education Associations were received.

Analysis of the Data

The first question in the opinionnaire was designed to specifically determine the existence of state laws dealing with the conduct of field trips by teachers. As indicated in Table 2 it is quite apparent that specific state laws relative to the conduct of field trips are virtually non-existent. Of the 48 states represented by returned opinionnaires in only one case did the reply specifically state that a law existed.

The one positive response came from California. According to the California Department of Education sections of the Education Code specifically authorize field trips for public school children.

Several sections of the Education Code were received from the California Teachers Association. These sections referred to the requirement for the availability of a first aid kit whenever children are taken on field trips. The necessary contents were outlined in detail. An additional, and rather interesting section of the California Code, was the requirement for the inclusion of a snake bite kit whenever

TABLE 2. RESPONDENTS' REPLIES TO QUESTION "DOES YOUR STATE HAVE SPECIFIC LAWS DEALING WITH THE CONDUCT OF FIELD TRIPS BY TEACHERS WITH GROUPS OF CHILDREN?"

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
Alabama	No	No	--
Alaska	No	No	--
Arizona	No	No	No
Arkansas	--	--	No
California	Refer/SI	Yes(1)	Yes(1)
Colorado	--	No	No
Connecticut	Refer/SI	No	--
Delaware	--	No	--
Florida	No	--	--
Georgia	No(2)	No	No
Hawaii	No	No	Refer
Idaho	No	No	No
Illinois	No	No	No(3)
Indiana	No	No	No
Iowa	No	No	No
Kansas	--	--	No
Kentucky	No	No	No
Louisiana	No	No	--
Maine	No	No	--
Maryland	--	No	--
Massachusetts	No	No	--
Michigan	No	No	--
Minnesota	No	No(4)	--
Mississippi	Refer/SI	No	Refer/SI
Missouri	No	No	No
Montana	--	--	--
Nebraska	--	No	No
Nevada	No	No	--
New Hampshire	No	No	--
New Jersey	--	No(5)	No(5)
New Mexico	No	No	--
New York	--	No	No
North Carolina	No	No	No
North Dakota	No	No	No
Ohio	--	No	No

TABLE 2 (continued)

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
Oklahoma	Refer/SI	No	No
Oregon	--	No(6)	--
Pennsylvania	No	No	No(7)
Rhode Island	Refusal	No	--
South Carolina	No	No	No
South Dakota	Refer/SI	No	No
Tennessee	No	No	No
Texas	No	No	No
Utah	Refer/SI	No	No
Vermont	--	No	--
Virginia	No	--	--
Washington	No	DNAQ	No
West Virginia	--	--	--
Wisconsin	No	No(8)	--
Wyoming	--	No	No

Notes: In cases where one agency referred request to another for reply, this is indicated.

DNAQ = Did Not Answer Question

1. Sections 11951 and 11952 of the California Education Code require the teacher to have a first aid kit on all field trips. The first aid kit must contain a snake bite kit when the field trip is scheduled to an area known to be infested by poisonous snakes.
2. Attorney General's Opinion (1958) relates to liability for injuries to State University students while on a field trip. The doctrine of sovereign immunity was ruled to apply.
3. Section 10-22.29 of the Illinois School Code (1968) refers to the use of school funds for outdoor education. Section 29-3.1 (1968) permits school boards to provide transportation for field trips.
4. Minnesota Statutes 1969, Chapter 146, Section 168.40, Subdivision 2, requires bus drivers to possess a valid school bus driver license when transporting pupils on school related trips, unless an automobile or station wagon is utilized.

TABLE 2 (continued)

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
5.	Held by Acting Commissioner of Education and affirmed by the State Board of Education that field trips which supplement and enrich pupils' classroom learning are important and desirable elements of a school program of instruction. <u>Willett v. Colts Neck, 1966 S.L.D. 202; affirmed 1968 S. L. D. 276.</u>		
6.	In 1929 the Attorney General wrote an Opinion [14 Opinion Attorney General (1928-30), 307] regarding the liability of the Dean of the Oregon Normal School for damages resulting to any person injured on a field trip to the ocean, and stated that the liability was limited to any matters resulting from his negligence in providing proper safeguards; and such liability would be confined to matters over which he had direction and control.		
7.	Section 517 of 24 Purdons Pennsylvania Statute authorizes transportation of pupils to the State Farm Show and to other exhibitions and places of interest.		
8.	An Opinion of the Attorney General dated December 27, 1938, indicated responsibility on field trips rests upon school officials, not the school district. In a more recent case (1962) the Supreme Court of Wisconsin held that municipalities, including school districts, could be held responsible for the negligence of their employees.		

the trip was scheduled for an area known to be infested by poisonous snakes.

Other responses, although interpreted to be negative replies in terms of the specific question, are worthy of some attention. One response included a copy of a 1958 Attorney General's opinion (Georgia) relative to liability for injuries to State University students while on field trips. In this case the University itself was not considered liable because of the doctrine of sovereign immunity.

Another response included sections of statutes from the state of Illinois. One section referred to the use of school funds for outdoor education. Another section allowed school boards to provide transportation for students on field trips in Illinois and adjacent states. Both were 1968 statutes.

The statutes of Minnesota require bus drivers to possess valid school bus driver licenses when transporting pupils on school related trips unless in an automobile or station wagon.

Contained within a 1966 New Jersey decision, made by the Acting State Commissioner of Education, is reference that field trips are a sound and important ingredient of the educational program. His decision was rendered in the case of Willett v. Colts Neck. This decision, affirmed by the State Board of Education, basically recognized the field trip

as an integral part of the child's educational experience. The expense for such activity was to be borne from instructional costs and was not to be assessed against parents or based upon the ability to pay. The Acting Commissioner did not rule that the P.T.A. or other similar agency might not make donations toward the support of such educational activities, but the basic cost was still to be considered as instructional.

A 1929 opinion of the Oregon Attorney General was cited. This opinion involved the liability of the Dean of the Oregon Normal School for damages resulting from injuries to a person while on a field trip to the ocean. It was stated that the liability was limited to matters resulting from negligence.

According to correspondence from the Pennsylvania State Education Association the laws of that state do not deal with teacher liability during field trips, but Section 517 of 24 Purdon's Pennsylvania Statutes does authorize field trips and provides for the payment of costs incurred. Specifically stated in the law is permission to transport pupils to the State Farm Show, as well as to other places of interest with educational value.

Of special interest also was information obtained from Wisconsin. An opinion of the Attorney General in 1938 indicated responsibility on field trips rests upon the school officials, not the school district. Taking a child away from school for a field trip does not constitute negligence,

unless the place to be visited is hazardous. In a more recent Wisconsin case (1962) it was held that municipalities, including school districts, could be held responsible for the negligence of their employees.

The intent of the second question contained in the opinionnaire was to ascertain the existence of court decisions regarding teacher responsibility and liability in the matter of field trips, either in recent (within the last five years), or earlier times. Complete results from an analysis of the responses to this question may be found in Table 3. Negative responses again were prevalent. Only one response indicated a recent court case involving a field trip. That case was from Kentucky.

This Kentucky case was unique and is closely enough related to the topic that a summary of it is included:

This case involved a senior trip which was taken despite a policy of the Board of Education prohibiting school sponsored senior trips. This trip was interpreted as an "educational trip" by the Superintendent, Principal, and the teachers involved in the suit. During the course of this trip, which involved swimming at a "closed" beach, Charles Cox drowned. The crux of the case revolved about the responsibility and liability of the principal and teachers for his death. The courts did not consider these matters as Charles Cox was over eighteen years of age and an adult in the Commonwealth of Kentucky. In the course of the authors

TABLE 3. RESPONDENTS' REPLIES TO QUESTION "HAVE YOU HAD ANY RECENT COURT DECISIONS REGARDING TEACHER RESPONSIBILITY AND LIABILITY IN THE MATTER OF FIELD TRIPS?"

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
Alabama	No	No	--
Alaska	No	No	--
Arizona	No	No	No
Arkansas	--	--	No
California	Refer/SI	DNA	DNAQ
Colorado	--	No	No
Connecticut	Refer/SI	No	--
Delaware	--	No	--
Florida	No	--	--
Georgia	No	No	No
Hawaii	No	No	Refer
Idaho	No	DNAQ	No
Illinois	No	No	DNAQ
Indiana	No	No	No
Iowa	No	No	DNAQ
Kansas	--	--	No
Kentucky	Yes	Yes(1)	Yes(2)
Louisiana	No	No	--
Maine	No	No	--
Maryland	--	No	--
Massachusetts	No	No	--
Michigan	No	No	--
Minnesota	No	No(3)	--
Mississippi	Refer/SI	No	Refer/SI
Missouri	No	No	No
Montana	--	--	--
Nebraska	--	No	No
Nevada	No	No	--
New Hampshire	No	DNAQ	--
New Jersey	--	No	No
New Mexico	No	No	--
New York	--	No	DNAQ
North Carolina	No	No	No
North Dakota	No	No	No
Ohio	--	No	No

TABLE 3 (continued)

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
Oklahoma	Refer/SI	No	DNAQ
Oregon	--	No	--
Pennsylvania	No	No	No
Rhode Island	Refusal	No	--
South Carolina	No	No	No
South Dakota	Refer/SI	No	No
Tennessee	No	No	No
Texas	No	No	DNAQ(4)
Utah	Refer/SI	No	No
Vermont	--	No	--
Virginia	No	--	--
Washington	No	DNAQ	DNAQ
West Virginia	--	--	--
Wisconsin	No(5)	No(5)	--
Wyoming	--	No	No

Notes: In cases where one agency referred request to another for reply, this is indicated.

DNA = Does Not Apply

DNAQ = Did Not Answer Question

1. Correspondence between the authors and the Director of the Division of Legal Services indicated that he did not cite the case of Cox v. Barnes, Ky. 469 S. W. 2d 61 (1971) because it dealt with a student who was over eighteen years of age, an adult in the Commonwealth of Kentucky.
2. Correspondence between the authors and John J. Slattery, Jr., Business and Legal Affairs, refers to the case of Cox v. Barnes, Ky. 469 S. W. 2d 61 (1971). Slattery pointed out that an "abundance of evidence was introduced at the trial level in support of the contention . . . (that) two teachers were negligent in their conduct of the field trip." The court however did not make a determination that they were or were not in fact negligent. The court did decide that the doctrine of "last clear chance" did not apply, and then decided that the plaintiff was not entitled to a directed

TABLE 3 (continued)

State	Attorney General (AG)	Supt./ Instr. (SI)	Education Assn. (EA)
verdict because of the age of the deceased, who was over eighteen years of age, an adult in the Commonwealth of Kentucky. Slattery points out that he is of the opinion that the "... case would have taken a different turn if an elementary or junior high student were involved instead of an eighteen year old high school senior." See copies of correspondence in Appendix B.			
3.	Correspondence between the authors and the Assistant Commissioner of Education indicated that one case was in District Court at the time the letter was written. His opinion was that "it would appear that settlements are being made by insurance companies to avoid court cases."		
4.	Correspondence between the authors and the Administrative Assistant indicated his opinion that "Senate Bill 72 enacted by the 62nd Legislature . . . (states) that the duties will be outlined for all personnel," which would have the effect of relieving "teachers from civil suits as long as they are performing their duties as prescribed."		
5.	Correspondence between the authors and Legal Counsel for the Department of Public Instruction indicated that in the 1962 case of <u>Holytz vs. The City of Milwaukee</u> it was held that municipalities including school districts in Wisconsin could thereafter be responsible for the negligence of its employees committed while in the scope of their authority." Continuing further Legal Counsel cited the case of <u>Cirillo vs. Milwaukee</u> , 34 Wis. (2d) 705, decided in 1966. He stated "it was held that a jury question of supervision was raised under certain circumstances where the teacher absented himself from a class in a Milwaukee school. The Wisconsin Court in that case set out the circumstances which would be considered if a teacher used the proper supervision under certain circumstances. The reasoning in this case would appear to be applicable to students on a field trip."		

correspondence with John J. Slattery of the Kentucky Education Association he stated that it was his opinion that, had Cox been a minor, the decision of the courts would have been different. The reader is referred to copies of this correspondence contained in Appendix B and also to the legal briefs and opinions contained in Cox v. Barnes, Ky. 469 S. W. 2d 61 (1971).

Another response, although interpreted to be negative in terms of the specific question of court cases and field trips, is of interest because of its possible applicability to field trips. Correspondence with the Legal Counsel with the Department of Public Instruction for Wisconsin indicated that he believed the case of Cirillo vs. Milwaukee, 34 Wis. (2d) 707, decided in 1966, might have applicability. He stated "it was held that a jury question of supervision was raised under certain circumstances where the teacher absented himself from a class in a Milwaukee school. The Wisconsin Court in that case set out the circumstances which would be considered if a teacher used the proper supervision under certain circumstances. The reasoning in this case would be applicable to students on a field trip." Here the court, in response to a question from the jury, set up the circumstances which would apply to a teacher in determining what was and was not "proper supervision" and that these rules would apply to field trips as well as the classroom.

The third question on the opinionnaire was intended to elicit comments regarding the matter of teacher responsibility and liability as related to field trips. The comments received from the various respondents were often quite interesting and informative. In a number of cases these responses were similar and may be easily summarized. A complete synopsis of these remarks will be found in Table 4.

The comments which appeared most frequently may be summarized as an expression that the doctrine of reasonable care and ordinary (classroom) tort liability for negligence is applicable to field trips. The reasonable care doctrine was cited by 34 respondents.

In 10 replies, chiefly those from Education Associations, it was pointed out that insurance was available through membership in the professional association. A typical amount of coverage offered was \$100,000. Several (eleven) respondents indicated that school districts may purchase liability insurance for their employees.

Even though in a few cases it was mentioned that the school districts are within the protection of the doctrine of sovereign immunity, more often it was indicated that the state legislature had removed the immunity doctrine from the statutes. Often, as indicated in Table 4, the comments included two items: (1) the state has a "save harmless" statute, and (2) liability insurance by the local school districts is permitted.

TABLE 4. SUMMARY OF REMARKS AND COMMENTS MADE BY RESPONDENTS

Key: AG = Attorney General of the state
 SI = State Superintendent of Public Instruction
 EA = State Education Association

Note: Copies of all correspondence analyzed in this study are on file in the Library, Indiana University at South Bend, 1825 Northside Boulevard, South Bend, Indiana 46615. Duplicate copies of all correspondence may be obtained, at cost, by contacting the Librarian. These copies may be utilized only to verify interpretation of data relative to research findings.

Alabama:

AG Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Alaska:

AG Liability insurance by professional association (\$100,000).

SI Department of Education encourages the use of community resources (field trips).

Arizona:

AG Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

EA Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Liability insurance provided by membership in professional association.

Arkansas:

EA Liability insurance provided by membership in professional association.

Table 4, (continued)

California:

- SI There are several code sections providing for liability insurance and health and accident insurance in connection with field trips.

Colorado:

- SI Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.
- EA Individual districts normally insure teachers to \$100,000 maximum. In addition the Education Association insures members for an additional \$300,000.

Connecticut:

- SI State has a "save harmless" statute and the purchase of liability insurance by local school districts is permitted.

Delaware:

- SI State has a system of self-insurance coverage.

Florida:

- AG The school district and/or the teacher are within the protection of the doctrine of sovereign immunity.

Georgia:

- SI Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

Hawaii:

- AG State has waived its immunity from liability for the torts of its employees while acting within the scope of their employment.

Idaho:

- AG State Legislature has enacted the Tort Claims Act.

Table 4 (continued)

Idaho (continued):

- SI Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.
- EA Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

Illinois:

- AG Employee liability is indemnified or protected by the school district.
- Purchase of liability insurance by the school district is permitted.

Indiana:

- AG Recommends liability protection (insurance) be provided by the school district.
- SI Teacher should visit the site of the trip to inspect for potential hazards.
- EA Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

Kansas:

- EA Liability insurance by professional association (\$100,000).

Kentucky:

- AG When enough problems arise the legislature should act.
- SI The teacher should get a signed waiver from the parents even though it may not be legally significant.
- EA See copies of correspondence in Appendix B.

Louisiana:

- AG Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

Table 4 (continued)

Maine:

- AG Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.
- SI Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.
- Department of Education recognizes the educational usefulness of field trips.

Maryland:

- SI The purchase of comprehensive liability insurance by the local school district is required. The school board is permitted to raise the defense of sovereign immunity to any amount in excess of the limit of liability (of the insurance).

Massachusetts:

- AG Employee liability is indemnified or protected by the school district.
- SI Employee liability is indemnified or protected by the school district.

Michigan:

- AG School districts are liable for injuries arising from negligence of school employees in the operation of school-owned vehicles.
- Doctrine of sovereign immunity from tort liability in the exercise and discharge of a governmental function is retained.
- School districts may purchase liability insurance for their employees and may pay judgments rendered against school employees.
- SI Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

Table 4 (continued)

Minnesota:

- AG Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.
- SI School districts are required to carry liability insurance during a four year trial period which will expire July 1, 1974.

Missouri:

- AG School district is immune from liability due to its negligence, but a teacher whose negligence on a field trip caused injury would probably be held liable.
- SI Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

Nebraska:

- EA Liability insurance by professional association.

Nevada:

- SI The teacher should obtain signed parental waivers, even though these are not effective.
The teacher should be insured.

New Hampshire:

- AG Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

New Jersey:

- AG Doctrine of reasonable care and ordinary (class-room) tort liability for negligence applies.

New York:

- SI State has a "save harmless" law.
- EA State has a "save harmless" law.

Table 4 (continued)

North Carolina:

- AG Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- EA Laws are very vague in several areas of duties of teachers.

North Dakota:

- AG Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- EA Liability insurance by professional association.

Oklahoma:

- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- EA Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- Liability insurance by professional association.

Oregon:

- SI The school district and/or the teacher are within the protection of the doctrine of sovereign immunity.

Pennsylvania:

- AG Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- The State carries liability insurance on all employees. Teachers may also be insured by group policies purchased by the school district and/or the professional association.
- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Table 4 (continued)

Pennsylvania (continued):

- EA Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Rhode Island:

- AG No money in budget for replies to opinionnaires for studies such as this.

South Carolina:

- EA Unfortunately, only about 1 per cent of the students in the state have planned field trips.

South Dakota:

- Liability insurance by professional association.

Tennessee:

- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- EA Believe school boards should have definite policies regulating field trips.

Texas:

- AG The Texas Tort Claims Act, Article 6252-19a, Vernons Civil Statutes, became effective January 1, 1970. This act affects teachers only to the extent of liability for motor vehicle accidents.

Utah:

- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- EA Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Washington:

- AG Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Table 4 (continued)

Washington (continued):

- AG Concept of sovereign immunity removed from statutes
- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- EA Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Wisconsin:

- AG Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.

Wyoming:

- SI Doctrine of reasonable care and ordinary (classroom) tort liability for negligence applies.
-

Summary

This chapter has presented the findings which were derived from the analysis of the data.

The findings of the first section revealed that the population was drawn from the Attorneys General, State Superintendents of Public Instruction, and the State Education Associations of the several states of the United States. Of the total population of 150 separate agencies surveyed a 73 per cent response was obtained. One or more responses were received from 48 of the 50 states.

The findings related to the first question on the opinionnaire concerning the existence of specific state laws dealing with teacher responsibility and liability on field trips disclosed that such laws are virtually non-existent. Only one state (california) had a law which could clearly be identified in this category.

The second question was asked to determine the existence of court decisions relative to the matter under investigation. Only one court case was considered to be closely enough related to the topic to be classified as a positive response, that court action being from Kentucky. Several other states had either opinions of various legal officers or court cases which were discussed for their broader relationship to the matter.

Many comments were received from the respondents. The most frequently recurring one was the opinion that

the legal standard of reasonable care is the same on a field trip as in the regular classroom. Of course the teacher should exercise that degree of care that a normally prudent person would exercise under similar circumstances. This may well mean that a higher degree of care will be exercised on a field trip, under the circumstances prevailing in the given situation, than would normally be expected in the "protected environment" of the classroom.

Chapter IV is devoted to a summary of this study, to the findings which were made, and to the conclusions drawn from these findings. Finally, recommendations for further study are presented.

CHAPTER IV

SUMMARY, FINDINGS, AND CONCLUSIONS

This final chapter is presented in three sections. The first section restates the problem of the study, summarizes the salient positions of the literature and related research, and outlines the procedures which were followed. The second section recapitulates the findings of the investigation. The final section states certain conclusions which were drawn from the findings and offers recommendations for future study.

Summary

The problem. The purpose of this study was to investigate existing state laws and court decisions in the United States related to teacher responsibility and liability while on field trips.

Related literature. The field trip or educational excursion has been a vital facet of the child's educational experience for some time. It originated in Europe before the turn of the century. The field trip began to be used in the United States in the early part of this century. Since that time the field trip has developed into a viable and accepted part of the total school program.

The review of the literature in the field of educational administration dealing with teachers' legal

responsibilities, particularly in the general area of field trips, revealed that little had been written on the subject. There does appear to be a nationwide trend to eliminate or materially change the doctrine of sovereign immunity. In addition a trend toward the enactment of "save harmless" laws within the several states is apparent. It also appears that an ever increasing number of states require or permit school districts to carry liability and/or personal injury insurance on school personnel and students. Numerous state professional associations also provide insurance plans in connection with membership in these organizations.

Methodology. A normative survey was conducted, utilizing an opinionnaire specifically designed for this purpose. These instruments were mailed to the Attorneys General, State Superintendents of Public Instruction, and the State Education Associations of all 50 states of the United States. A follow-up mailing was utilized in order to increase the per cent of responses.

Replies were analyzed and a percentage of responses was reported where appropriate. Because of the nature of the instrument utilized and the responses received, the major portion of this study consisted of the subjective judgments and interpretative analyses of the authors. Data were summarized, classified, and tabulated where deemed appropriate.

Findings

The following findings, indicated by the results of the analyses, were reported:

1. State laws specifically dealing with teacher responsibility and liability during the conduct of field trips are virtually non-existent.
2. Recent court decisions regarding teacher responsibility and liability while engaged in the conduct of field trips are few, if any, in number.
3. The teacher conducting a field trip is no more liable to tort liability for negligence than he would be in his own classroom. While the precautions which must be taken to insure the safety of the child may be different, and often more stringent while on field trips, the doctrine of reasonable care is still applicable.
4. Liability insurance is available to teachers either through governmental agencies and/or membership in professional organizations in many states.
5. A trend appears to be developing in which states are removing the doctrine of sovereign immunity from their statutes. A related trend, not necessarily in the same states, appears to be the adoption of "save harmless" laws.

Conclusions

Based upon the findings reported, the following conclusions were drawn:

1. The Departments of Education, either through the State Superintendent of Public Instruction or other appropriate officers, should specifically recognize the field trip as an integral part of the total educational program. It is believed that this would have the effect, in law, of protecting the teacher for all but tortious acts of negligence.

2. State legislatures should consider the enactment of statutes requiring adequate liability and accident insurance coverage for all persons while in the classroom as well as when engaged in the conduct of and participation in the field trip. Legislatures may also wish to consider the enactment of "save harmless" laws in conjunction with those dealing with adequate liability insurance coverage.

Recommendations for further study. Since the present study revealed a lack of statutes relating to teacher responsibility and liability during the conduct of field trips it is recommended that the matter of "parental permission slips" be studied.

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APPENDIXES

APPENDIX A

INDIANA UNIVERSITY at SOUTH BEND

1825 NORTHSIDE BOULEVARD
SOUTH BEND, INDIANA 46615

57

DIVISION OF EDUCATION



TEL. NO. 210--282-2111

July 7, 1971

Dear Sir:

Today more and more teachers are utilizing community resources in their teaching. Part of this pattern of utilization requires them to take their children outside the normal classroom environment on "field trips." Many teachers evidence concern about their legal responsibilities during these field trips.

We recognize that the several states have differing legal requirements concerning teacher responsibilities and liability during field trips. We are conducting a normative survey in order to determine the legal responsibilities and requirements of the several states regarding this matter. Would you please answer the following questions:

1. Does your state have specific laws dealing with the conduct of field trips by teachers with groups of children?
2. Have you had any recent (within the last five years) court decisions regarding teacher responsibility and liability in the matter of field trips? Earlier decisions?
3. Are there any comments you would like to make regarding the matter of teacher responsibility and liability in the matter of field trips?

It is planned to analyze the results of the responses to the above questions regarding field trips. The authors do not intend to interpret the laws but rather inform teachers of the laws presently in effect.

We will share the results of this study with you.

Sincerely,

Wayne J. Krepel

Wayne J. Krepel
Associate Professor of
Secondary Education

Charles R. DuVall

Charles R. DuVall
Associate Professor of
Elementary Education

INDIANA UNIVERSITY at SOUTH BEND

1825 NORTHSIDE BOULEVARD
SOUTH BEND, INDIANA 46615

58

DIVISION OF EDUCATION

1820



1970

TEL. NO. 219-281-2111

This letter was previously sent you. We hope you will be able to cooperate with us. Thanks CRH 8-11-71

July 7, 1971

Dear Sir:

Today more and more teachers are utilizing community resources in their teaching. Part of this pattern of utilization requires them to take their children outside the normal classroom environment on "field trips." Many teachers evidence concern about their legal responsibilities during these field trips.

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Sincerely,

Wayne J. Krepel

Wayne J. Krepel
Associate Professor of
Secondary Education

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Associate Professor of
Elementary Education

APPENDIX B



60

KENTUCKY EDUCATION ASSOCIATION

101 WEST WALNUT STREET • LOUISVILLE, KENTUCKY 40202

August 11, 1971

Mr. Wayne J. Krepel and Mr. Charles R. DuVall
Indiana University at South Bend
1825 Northside Boulevard
South Bend, Indiana 46615

Gentlemen:

I have your letter request of July 7 concerning your proposed efforts to inform teachers of laws presently in effect on the subject of field trips.

In reply to your questions:

1. Kentucky does not have laws that relate specifically to the conduct of field trips by teachers with groups of children. However, these matters are normally covered by regulations or policies adopted by local boards of education. Since the boards are agencies of the state, they have authority to adopt reasonable regulations in this area, and such regulations or policies would have the same force and effect as a statute.
2. Regarding recent court decisions, I am enclosing a decision that was rendered by the Court of Appeals of Kentucky on June 25, 1971; also enclosed, are briefs that were presented by the parties in the case. In looking over this material, you will note that the statutory and case law in our state is fairly well summarized at one point or another.

You will note from the decision rendered by the court that an abundance of evidence was introduced at the trial level in support of the contention the two teachers (Mrs. Barnes and Mr. Hooks) were negligent in their conduct of the field trip. However, the court did not make a determination as to whether or not they were in fact negligent. The court did decide that the doctrine of "last clear chance" did not apply, and then it went on to decide that the plaintiff was not entitled to a directed

Mr. Krepel and Mr. DuVall, August 11, 1971, page #2

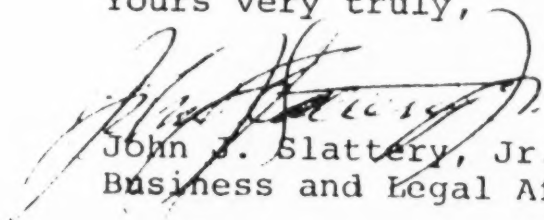
verdict. It is noted that in Kentucky an eighteen year old is an adult, and is held to adult standards of conduct. The jury apparently found the deceased to be guilty of contributory negligence and, therefore, having established this defense, there was no need to decide whether or not the two teachers were negligent.

This may not be too helpful in view of the unusual fact situation, however, I am of the opinion that the case would have taken a different turn if an elementary or junior high student were involved instead of an eighteen year old high school senior.

3. Concerning your request for comments on the general issue of teachers responsibility and liability in the matter of field trips, I would say that the same standards would be used to measure responsibility and liability on field trips as would be used in any other situation where teachers are in charge of a group of pupils. The big, and obvious difference, however, where a field trip is concerned, is the fact that the exposure to dangerous situations is greatly intensified.

Thank you very much for your inquiry, and we at KEA would be very interested in knowing the results of your study.

Yours very truly,



John J. Slattery, Jr.
Business and Legal Affairs

JJS:dmh
Enclosure

**KENTUCKY EDUCATION ASSOCIATION**

101 WEST WALNUT STREET • LOUISVILLE, KENTUCKY 40202

October 14, 1971

Mr. Charles R. DuVall
Associate Professor of Education
Indiana University at South Bend
1825 Northside Blvd.
South Bend, Indiana 46615

Dear Mr. DuVall:

Reference is made to your letter of October 14. I am happy to grant permission for you to quote from my letter of August 11, 1971 or from this letter, for the purposes requested.

There is one other point in this area that has recently come to my attention - - the effect of "permission slips" signed by parents of a minor student. These slips are normally drafted in a manner that purports to release the school and the teachers from all liability in the event of an accident.

Admittedly, the "permission slips" serve some practical purposes - - informing parents of the nature of the field trips, waiver of minor items of damages in the event of a suit, etc. However, many teachers and administrators are of the impression that these slips constitute a bar to recovery of any kind. This is of course, erroneous.

In a negligence action involving injury to a minor student, the major items of damages would be loss of future income, pain and suffering, etc. These are items of damage that would accrue to the benefit of the child. Waiver of these items or waiver of the right to bring an action cannot be signed away by someone else. The only exception would be in a case where the waiver was executed by a court appointed "guardian" or "next friend."

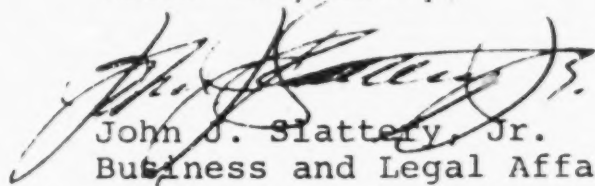
Mr. Charles DuVall, October 14, 1971, p.2

The school or school board would have the defense of sovereign immunity but teachers could be sued in their individual capacity, in the same manner that the child could sue his parents.

Research on the particulars of this concept would be appropriate, but I thought it to be worth mentioning since we have had several recent inquiries from teachers.

We look forward to receiving a copy of your report.

Yours very truly,


John O. Slattery, Jr.
Business and Legal Affairs

JJS:dmh